

(2021) 11 J&K CK 0004

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1523 Of 2009, IA No. 2001 Of 2009

Kulbir Singh

APPELLANT

Vs

UCO Bank And Ors

RESPONDENT

Date of Decision : 01-11-2021

Acts Referred:

Citation : (2021) 11 J&K CK 0004

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Manpreet Kour

Final Decision : Dismissed

Judgement

Sanjeev Kumar, J

1. In this petition, the petitioner has, inter alia, sought a direction to the respondents to allow him to participate in the physical fitness test as also the interview for the post of Watch and Ward.

2 The short grievance projected by the petitioner in this petition is that, pursuant to sponsoring of name of petitioner by the Rajya Sainik Board Delhi, the petitioner applied for the post of Watch and Ward in the respondent-Department. After scrutiny of his testimonials, he was summoned for physical fitness test as also the interview to be conducted at UCO Bank Ashoka Market, Raghunath Bazar, Jammu (J&K) on 12.08.2009 at 9 AM. Notice to the petitioner for participating in the selection process was though dispatched by the respondents on 27.07.2009, but the same was actually received by the petitioner on 12.08.2009 i.e., on the date the physical fitness test/interview was scheduled.

3 The petitioner with a view to obtain the exact reasons for delayed delivery of the notice dated 27.07.20089 approached the Sub-Post Office, Dablehar. The Sub-Post Master, Dablehar gave a certificate of delivery of notice indicating therein that the notice was received by the Post Office concerned on 01.08.2009,

but as per the record, the same was delivered to the petitioner on 12.08.2009 at 3:30 PM.

4 In the aforesaid backdrop and having been disabled to appear in the physical fitness test as also the interview on time, the petitioner filed the instant petition seeking, inter alia, a direction to the respondents to allow him to participate in the physical fitness test as also the interview for the post in question.

5 On being put on notice, the respondents have filed their objections and the stand taken is that the respondents had issued notice to the petitioner through proper registered post on 27.07.2009 and the same, as per the record of the Postal Authority, was received in the Post Office concerned on 01.08.2009. It is, however, due to the negligence of the Postal Authority, the same was not delivered for 11 days and this became the reason for the petitioner not to appear before the Selection Committee on time. It is submitted that the petitioner, who got the notice on 12.08.2009, could have very well approached the respondents before the closure of selection process and in that event, perhaps, the Selection Committee could have allowed him. The petitioner, however, did not approach on 12.08.2009, therefore, it was not possible for the respondents to hold separate physical test/interview as the Selection Committee had closed the selection process on 12.08.2009 at 5:00 pm. In short, the reply of the respondents is that the delay, if any, that has occasioned in delivery of notice to the petitioner is solely due to the negligence of the Postal Authorities and, therefore, no direction can be issued to the respondents to hold separate physical fitness test or interview for the petitioner, that too, after the closure of selection process.

6 Having heard learned counsel for the petitioner and perused the material on record, I am of the view that the petitioner, who may have grievance against the Postal Authorities cannot seek a direction, as prayed for in this petition, for taking of separate or special physical fitness test or interview for the post in question. Insofar as the respondents are concerned, they had dispatched the notice to the petitioner on 27.07.2009 i.e, almost two weeks in advance. As a matter of fact, the notice was delivered in the Post Office concerned on 01.08.2009. It is, however, a different matter that the Postal Authorities, who are supposed to deliver the notice to the petitioner, took almost eleven days to deliver the same. This is how the notice, which was received by the Postal Authority on 01.08.2009 was actually delivered on 12.08.2009 which incapacitated the petitioner to participate in the selection process on time.

7 Viewed thus, the petitioner has apparently missed to appear in the physical fitness test and interview on 12.08.2009 due to the fault and negligence of the Postal Authorities and, therefore, that fault and negligence cannot be attributed to the respondents.

8 In view of the aforesaid, I do not find any merit in this petition and the same is, accordingly, dismissed. However, the dismissal of this petition shall not come in the way of the petitioner to lodge an appropriate claim for compensation

against the Postal Authorities.